



## MB sportswear – terms & conditions

### Article 1 - Definitions

Under these terms & conditions, the following terms shall have the following meaning:

- *MB Sportswear*: custom-made sportswear designed pursuant to the specific wishes of the client;
- *MB sportswear bv*: the supplier/sell concluding, or looking to conclude an agreement with the client;
- *Client*: the buyer concluding, or looking to conclude an agreement with the supplier;
- *Consumer*: a client not acting on behalf of his profession or company;
- *Corporate client*: a client acting on behalf of his profession or company;
- *Personalised products*: products branded with, or boasting, a unique and personal adaptation.

### Article 2 - Scope

- 2.1 These terms & conditions apply to any and all quotes and offers made by MB sportswear bv with respect to on-line sales.
- 2.2 The applicability of any of the Client's own terms & conditions to any agreement entered into with MB sportswear bv is expressly excluded.
- 2.3 Should any provision of these terms & conditions be declared null and/or void, such will not prejudice any remaining provisions of these terms & conditions and will subsequently see MB sportswear bv and its client enter into consultations aimed at agreeing a replacement provision that will, where possible, match the objective and the wording of the provision declared null and/or void as best it can.

### Article 3 – Offering of quotes and concluding an agreement

Any agreement between MB sportswear bv and the client is concluded by the acceptance of an offer there to. MB sportswear bv will provide the client a written order confirmation.

- 3.1 Any MB sportswear bv offers, quotes and prices published in any publication whatsoever, or put forward in whatever manner, cannot bind MB sportswear bv, unless otherwise agreed to in writing.
- 3.2 MB sportswear bv shall only be bound by the arrangements the client has concluded with MB sportswear bv's members of staff, provided that their conclusion is confirmed by MB sportswear bv in writing. In this respect, a 'member of staff' is to be understood as any MB sportswear bv employee that does not enjoy any powers to represent the company. The agreement shall have no other meaning than that which MB sportswear bv has stated it to have in the order confirmation.
- 3.5 The client is prohibited from deriving any rights from any data pertaining to that which was offered, as well as any data contained in printed form, imagery and presentations, etc.
- 3.6 Any amendments to this agreement shall only be binding upon its parties if either confirmed and/or accepted by MB sportswear bv in writing.
- 3.7 MB sportswear bv reserves the right to reject any amendment to this agreement and is not required to state any reasons for its doing so.
- 3.8 MB sportswear bv may not be held liable for any damage incurred that is either the direct or the indirect result of such a rejection.



- 3.9 The client is prohibited from transferring to any third party, either in full, or in part, any rights and/or obligations disseminating from this agreement without the prior written consent of MB sportswear bv.

#### Article 4 – Prices and Deposits

- 4.1 Any and all agreements are concluded on the basis of the prices in effect at the time of their conclusion.
- 4.2 Unless stated otherwise, all prices and rates listed in the offers, quotes and order confirmations are exclusive of VAT.
- 4.3 Unless stated otherwise, all consumer prices and rates listed in the offers, quotes and order confirmations are inclusive of VAT.
- 4.4 MB sportswear bv reserves the right to demand the client to pay it a deposit at the conclusion of their agreement.
- 4.5 Should such a deposit be demanded of the client, MB sportswear bv shall refrain from commencing its production until such time as it has received the deposit. Any delays in production and or delivery will be incurred at the risk and expense of the client.

#### Article 5 - Payment

- 5.1 Unless agreed to otherwise in writing, all payments shall be made in the currency of the agreed and/or invoiced price. In the event that no currency is found indicated, payment will be made in Euros. Should parties have agreed that payment may be made in a currency other than that of the agreed price, MB sportswear bv shall reserve the right to pass on any resulting currency losses it incurs.
- 5.2 Unless expressly agreed to otherwise in writing, payment will have to be made in advance, using the on-line payment tool that is linked to the web module.

#### Article 6 - Intellectual Property

- 6.1 Unless expressly agreed to otherwise in writing, MB sportswear bv shall reserve all rights to any designs, print proofs, images, drawings, models, concepts and ideas and existing intellectual property rights it has made available to the client.
- 6.2 The matters summarised in paragraph 1 of this article may only be reproduced, disclosed, copied, or distributed with the express written consent of MB sportswear bv.
- 6.3 MB sportswear bv shall reserve all rights to the designs, print proofs, images, drawings, models, concepts and ideas referred to in paragraph 1 of this article and these are to be immediately returned to MB sportswear upon its first request for them.
- 6.4 In the event that the client were to violate any of the obligations listed in this article, it will incur a penalty in the amount of EUR 10,000 (ten thousand Euros) per violation, to be due immediately, and without judicial intervention, payable to MB sportswear bv for each day that the violation is continued and without prejudice to its duty to pay MB sportswear bv's any full damages it may be due for the damage it incurred.

#### Article 7 – quality and the right to complain

- 7.1 Unless specific qualities are expressly agreed to in writing, MB sportswear bv will supply products that meet the market's regular quality standards.



- 7.2 Any specific quality requirements or standards the products MB sportswear bv is asked to supply will have to have been expressly agreed to. Barring such an agreement, products will be presumed required to meet the regular quality requirements and standards expected within the market.
- 7.3 Complaints may not be lodged for minor, or technically unavoidable, anomalies in the quality, quantity, size, width, colour, finishing, normal wear and tear, improper use, improper application of the washing instructions, and the like, of custom-made products and clothing.
- 7.4 The client is held to thoroughly inspect the products he has been supplied for any defects, and to, as soon as possible, though ultimately, no later than within fourteen days of the date of their delivery, notify MB sportswear bv of such in writing. Consumers are considered to have timely lodged their complaints if submitted within thirty days of the date of their delivery. Failure by the client to timely notify MB sportswear bv in writing of the products he was supplied not meeting the demands stipulated in the agreement will result in him losing his right to lodge any such complaint.
- 7.5 MB sportswear bv must be offered the opportunity to verify any complaints submitted to it. To this end, the client will return the products he was supplied to MB sportswear bv at his own expense.
- 7.6 Any complaint upheld between the parties will require the drafting of a written statement to that effect that is to be signed by both parties.
- 7.7 MB sportswear bv shall reserve the right to, at its own discretion, either replace or repair the defective products in question, or reimburse the client for the full amount he paid for them.
- 7.8 The statute of limitations on submitting any claims and defences based on any facts that might justify the assertion that the products supplied do not meet the requirements demanded of them by the agreement is two years from the date of the complaint lodged in accordance with paragraph 4 of this article.
- 7.9 In the event that the parties were to fail to agree on whether or not the products supplied meet the requirements demanded of them by the agreement, such a dispute will, contrary to Article 15 paragraph 2 of these terms & conditions be settled by an expert jointly appointed by the parties. In the event that the parties were to prove unable to jointly appoint such an expert, the parties will then each appoint their own experts who will, in turn, jointly appoint a third expert. In such an event, the three experts appointed will jointly issue their binding advice to the parties. Unless expressly agreed to otherwise in writing, the costs for this binding advice will be incurred by the party the advice has deemed to be in the wrong.
- 7.10 In the event that in the opinion of either MB sportswear bv and/or the appointed expert, the complaint is deemed to have justifiably been lodged, MB sportswear bv will move to either award an equitable payment of damages up to the amount invoiced for the products delivered, or replace the products delivered free of charge, following their return to MB sportswear bv in their original state. MB sportswear bv cannot be held liable to pay any other damages, or expenses of any nature whatsoever.

#### Article 8 – Delivery Dates

- 8.1 Unless expressly agreed to otherwise in writing, the agreed delivery dates shall constitute any strict deadline.



- 8.2 MB sportswear will notify the client in writing of its inability to meet any agreed delivery date. It will also indicate to the client either what delivery date it is expected to be able to meet and/or notify him of the agreed delivery no longer being a possibility.
- 8.3 In the event that the agreed delivery were to no longer be a possibility, MB sportswear will, barring any instance of *force majeure* as referred to in Article 13 of these terms & conditions, deposit the full amount of the client's purchase in the client's bank account.

#### Article 9 - Shipping

- 9.1 Products will be shipped and delivered to the client in the manner indicated by MB sportswear bv.
- 9.2 In the event that the client were to elect to have his order shipped to him by other means, e.g. by courier, or express delivery service, such is to proceed in consultation with MB sportswear bv, with the client incurring any extra costs that may accompany such.

#### Article 10 - Withdrawal/ Returns/ Replacements

- 10.1 The client is prohibited from withdrawing from any agreement pertaining to custom-made products, consisting of items bearing a personalised design.
- 10.2 Items delivered that have been branded with a personalised design are considered custommade products. The client is not entitled to either return such products, or demand their replacement.
- 10.3 Consumers may return items delivered that have not been branded with a personalised design, or which have not been personalised in any other manner, in accordance with the mandatory 14-day return period.
- 10.4 The consumer will treat the product and its packaging with care during the return period. He will only move to unwrap or use the the product insofar as necessary for him to be able to establish its nature, characteristics and functionality. Should the client elect to withdraw from the agreement, he will then return the product in accordance with MB sportswear bv's reasonable and unambiguous instructions.
- 10.5 Products supplied to the consumer are returned at the the risk and expense of that consumer.
- 10.6 The burden of proof in showing that the products he was supplied were returned in a timely fashion lies with the consumer. He may, for example, evidence such by providing a copy of a mail order receipt. Products must be returned in their original packaging (along with any accessories and documentation accompanying them) and in the state they were delivered. In the event that the consumer were to have used, encumbered, or in any way damaged the products concerned, MB sportswear bv shall reserve its right to charge the consumer for any loss of value. MB sportswear bv shall in accordance with the foregoing, ensure that refunds are issued either within fourteen days of the safe receipt of the products returned, or within fourteen days of receiving proof of their return (please note that such a proof of return should at all times list the contents of the return shipment).

#### Article 11 – Retention of Title

- 11.1 Until such time as the client has fulfilled his payment obligations pursuant to this or any other agreement he has concluded with MB sportswear bv, - which is to be understood as to also include any monies he owes MB sportswear bv as a result of any default of obligation on



his part - MB sportswear bv shall, at all times, retain title to the products supplied under the agreement.

- 11.2 MB sportswear bv reserves the right to reclaim these products and to take possession of them in the event of any default of obligation on the part of the client. The client is held to, at all times, offer his cooperation in this respect.
- 11.3 The client shall remain prohibited from transferring these products to any third party and/or encumbering them for as long as title to them is retained by MB sportswear bv, with such expressly to be understood to include, though not confined to, their pawning and/or being put up as a security.

In the event that the client were to violate any of the obligations listed in this article, he will incur a penalty in the amount of EUR 10,000 (ten thousand Euros) for each day that the violation is continued and without prejudice to its duty to pay MB sportswear bv's any full damages it may be due for the damage it incurred.

#### Article 12 - Liability

- 12.1 MB sportswear bv may only be held liable by the client in the event of any default in its performance that may be attributed to it, if first notified of its default by the client by a written notice to that effect that had allowed it a reasonable period for the performance of its obligations that nevertheless lapsed in failure thereof.
- 12.2 MB sportswear bv may not be held liable for any amount in excess of 100% of the total amount of the invoices made out to the client under the agreement to which the instance of default in performance pertains, with such amount to be understood as exclusive of VAT if pertaining to corporate clients. Total liability vis-à-vis consumers is capped at 100% of the total amount of the invoices made out to the consumer, with such amount to be understood as inclusive of VAT.
- 12.3 At no time whatsoever may MB sportswear bv be held liable for any indirect damage incurred, e.g. consequential damage, losses due to delays and loss of turnover or profits.
- 12.4 MB sportswear bv cannot be held liable for any costs, damage and interest that may be incurred as the direct or indirect result of:
- a. of *Force Majeure* as referred to in Article 13 of these terms & conditions
  - b. any acts, or omissions, on the part of the client, its subordinates, and/or any other persons employed by or by way of the client.

#### Article 13 - Force Majeure

- 13.1 The following *Force Majeure* criteria apply to all dealings with our corporate clients: Exceptional circumstances such as storm damage and other natural disasters, third-party obstruction, general transport obstructions; full, or partial, industrial action; public uprisings; occupation of corporate premises; seizures; defects to machinery; war, or the threat of war, both domestically, as well as in the country of the products' origin; exclusions; loss of, or damage to, products by MB sportswear bv's suppliers; trade bans; full or partial mobilisations of troops; any government measures aimed at mitigating epidemics; fire; power outages and accidents occurring at MB sportswear bv's premises, or its means of transportation, or those of any third parties; loss of the components marked for processing; the levying of taxes and/or other government measures causing a change to factual circumstances, staff falling ill and/or a lack of available staff; and any other circumstance MB sportswear bv could be



reasonably be expected to have foreseen to arise and it was unable to impact, qualify as Force Majeure exculpating MB sportswear bv of any duty to deliver and/or perform its duties and services, rendering the Client not entitled to the receipt of any damages of any nature whatsoever.

- 13.2 The following *Force Majeure* criteria apply to all dealings with our consumer clients: any default of obligation on the part of MB sportswear bv may not be attributed to MB Business promotion bv if such either cannot be deemed due to fault on the part of MB Business promotion bv, may not be attributed to MB sportswear bv by law, legal act, or generally prevailing opinion.
- 13.3 Any instance of *Force Majeure* as described in the foregoing paragraphs 1 and 2 of this article entitle MB sportswear bv to either cancel the sale and/or service agreement, and/or suspend, or amend it until such time as the exceptional circumstances have ceased to occur.

#### Article 14 - Dissolution and Suspension of the Agreement

- 41.1 Without prejudice to any of its other rights, MB sportswear bv shall reserve the right to dissolve this agreement with immediate effect and without any prior notice of default, or court intervention, being required:
- a. if the client were to default on his obligation vis-à-vis MB sportswear bv;
  - b. if either MB sportswear bv or the client were to be granted (temporary) protection from its creditors, or if a request to that effect were to have been submitted;
  - c. if either MB sportswear bv or the client were to be declared bankrupt or if a request to that effect were to have been submitted;
- 14.2 MB sportswear bv will also be entitled to suspend the performance of its services under the agreement either in the event of any default of obligation on the part of the client, or any of the eventualities listed under paragraph 1 at *b.* and *c.* arising.
- 14.3 The agreement can only be dissolved or suspended through a written declaration to that effect.

#### Article 15 – Data Processing

- 15.1 Any order the client places with MB sportswear bv will require the latter to process certain personal data pertaining to the client delivery of services sought, or the performance of the assignment Said processing constitutes the processing of personal data as referred to in the General Data Protection Regulation (GDPR).
- 15.2 MB sportswear will take the technical and organisational measures to protect the processing of your personal data from any loss or unlawful processing thereof. In doing so, MB sportswear bv will take the nature of such personal data into account.

#### Article 16 - Applicable law

- 16.1 Any and all agreements concluded between MB sportswear bv and the client are exclusively governed by Dutch law.